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Right to development

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the General Assembly the report of the independent expert on the right to development, Arjun Sengupta, pursuant to General Assembly resolution 54/175 and Commission on Human Rights resolution 2000/5.

* A/55/150 and Corr.1 and 2.
** In accordance with General Assembly resolution 54/248, sect. C, para. 1, this report is being submitted on 17 August 2000 so as to include as much updated information as possible.

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Report of the independent expert on the right to development*

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I. Introduction

1. In its decision 1998/269 of 30 July 1998, the Economic and Social Council, taking note of Commission on Human Rights resolution 1998/72, endorsed the Commission's recommendation, in view of the urgent need to make further progress towards the realization of the right to development as elaborated in the Declaration on the Right to Development (General Assembly resolution 41/128, annex), to establish a follow-up mechanism that included the appointment of an independent expert to present, to the open-ended working group on the rights to development at each of its sessions, a study on the current state of progress in the implementation of the right to development. The first study (E/CN.4/1999/WG.18/2) was submitted by the independent expert in July 1999. The report was to be discussed by the working group at its sessions in September and December 1999; however, the working group was not able to meet in 1999 and is scheduled to meet on 18 September 2000. The working group now has one year less to complete the task assigned to it by the Commission on Human Rights. The independent expert has been waiting to receive from the working group instructions and suggestions about further development of his work.

2. In its resolution 54/175 of 17 December 1999, on the right to development, the General Assembly called upon the independent expert to submit comprehensive reports to it at its fifty-fifth session on, inter alia, the effects of poverty, structural adjustment, globalization, financial and trade liberalization and deregulation on the prospects of the enjoyment of the right to development in developing countries. The areas to be reported on by the independent expert are very broad. The intention was clearly not to have them all included in one comprehensive report, but to consider them in a number of reports while leaving it to the independent expert to choose the sequence of subjects relevant to the realization of the right to development.

3. In compliance with General Assembly resolution 54/175, the independent expert intends to submit a series of reports covering the different subjects specified in the resolution so that they may be discussed by the Assembly at its coming sessions. The present report focuses on issues related to poverty, how they affect the prospects of realizing the right to development and how the removal of poverty can contribute to the realization of that right. The 1999 report on the right to development (E/CN.4/1999/WG.18/2) spelled out the basic characteristics of a process for realizing the right to development and a programme for implementing that right in a step-by-step manner. The eradication of poverty is an essential element of that programme, and a discussion of the issues relevant to reducing poverty would bring out clearly the nature and characteristics of the approach to realizing the right to development as a human right. The present report includes an attempt to outline the current state of implementation of the right to development and to lay out guidelines for implementing that right step by step, along the lines suggested in the 1999 report for realizing the right to food, the right to primary education and the right to primary health.

II. The content of the right to development: what is to be implemented

4. In the 1999 report (E/CN.4/1999/WG.18/2, paras. 36-46), the content of the right to development was analysed on the basis of the text of the Declaration on the Right to Development. In article 1, paragraph 1 of the Declaration, it is stated: "The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized." The article spells out three principles: (a) there is an inalienable human right that is called the right to development; (b) there is a particular process of economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized; and (c) the right to development is a human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy that particular process of development. The first principle affirms the right to development as being an inalienable human right and, as such, the right cannot be taken or bargained away. The second principle defines a process of development in terms of the realization of "human rights", which are enumerated in the Universal Declaration of Human Rights and other human rights instruments adopted by United Nations bodies. The third principle defines the

right to development in terms of the entitlements to that process of development.

5. Other articles of the Declaration elaborate on these principles, as discussed at length in the 1999 report. The first principle, which asserts that the right to development is a human right, has by now gained universal acceptance, through the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993 (A/CONF.157/24 (Part I, chap. III)). In paragraph 1 of the Vienna Declaration, the World Conference reaffirmed the right to development, as a universal and inalienable right and an integral part of fundamental human rights; it also stated that the universal nature of those human rights and freedoms was beyond question. This means that all Governments, especially those that were part of the Vienna consensus, have undertaken to respect the right to development as a human right in all their dealings and transactions.

6. To have a right means to have a claim to something of value on other people, institutions, the State or the international community, which in turn has the obligation of providing or helping to provide that something of value. The Nobel laureate Amartya Sen has described the prevalent view about the essential characteristics of rights as follows: "Rights are entitlements that require correlated duties. If person A has a right to some X, then there has to be some agency, say B, that has a duty to provide A with X."[1] Recognizing a right would necessitate identifying the duty holder who has the obligation of fulfilling or enabling the fulfilment of the right. Any attempt to justify the use of rights must be preceded by specifying the nature of the valuable elements that are considered as entitlements or rights and then specifying the agents who have the corresponding duties to bring about the fulfilment of those rights.

7. In the early history of the human rights movement, this binary matching of rights with duties was understood too inflexibly. Rights would be acceptable only if they were realizable and that would require matching rights claims with corresponding duties having identifiable methods of carrying out the obligations by the duty holder. Sen describes this matching in terms of the Kantian concept of "perfect obligation". According to those espousing rights as "perfect obligations", saying that everyone has a right to food does not mean much unless agent-specific duties and methods of fulfilling the obligation of the duty holders can be identified.

8. Over time this rigid and inflexible view of rights has given way to a broader understanding of the rights-duty relationship in terms of what Sen describes as the Kantian view of "imperfect obligations". Instead of perfectly linking rights to exact duties of identified agents, as Sen puts it, "the claims are addressed generally to anyone who can help", and the rights become "norms" of behaviour or action of the agents such as other individuals, the State or the international community who can contribute to the fulfilment of those rights. Nevertheless, in order for a claim to be recognized as a right, the feasibility of realizing the right still has to be established. A non-realizable claim, however laudable it may be, can possibly be a societal goal but not a right, or a "valid" right as the philosopher Feinberg would put it. Even in a world of imperfect obligations, feasibility would still have to be established at least in principle — how different duty holders, if they operated in a coordinated manner according to a properly designed programme of action, can realize that right.

9. But feasibility in principle does not automatically lead to actual realization. Realization would depend on the agreement of all the duty holders to work together according to a programme and some binding procedures to make that agreement honoured. Legislation that converts a "valid" right into a "legal" right is one such procedure, but it need not be the only one. There are many other ways of making an agreement binding among different duty holders. This is particularly true if the duty holders are different States parties and the imperfect obligations cannot be reduced to legal obligations. Even if a right cannot be legislated, it can still be realized if an agreed procedure for its realization can be established. In other words, such an agreed procedure, which can be legally, morally or by social convention binding on all the parties, would be necessary to realize a valid right, that is, a right that is feasible to realize through interaction between the holders of the right and of the obligations.

10. Recognizing a right as a human right raises the status of that right to one with universal applicability and articulates a norm of action for the people, the institution or the State and international community on which that claim is made. It confers on the implementation of that right a first-priority claim to national and international resources and capacities and,

furthermore, obliges the State and the international community, as well as other agencies of society, including individuals, to implement that right. In paragraph 1 of the Vienna Declaration, it is stated: "Human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of Governments." Reaffirming the commitment contained in Article 56 of the Charter of the United Nations to take joint and separate action, the Vienna Declaration, in paragraph 10, states specifically: "States should cooperate with each other in ensuring development and eliminating obstacles to development. The international community should promote an effective international cooperation for the realization of the right to development and the elimination of obstacles to development."

11. The programme outlined by the independent expert for implementing the right to development is built on this call for international cooperation in the Vienna Declaration, which in turn had accepted virtually all the prescriptions of the Declaration on the Right to Development, adopted by the General Assembly in its resolution 41/128 of 4 December 1986. In the 1986 Declaration, the duty of the international community to cooperate was built upon Articles 56 and 57 of the Charter of the United Nations, which has the legal status of an international treaty. In the 1986 Declaration, the right to development is defined as a human right in article 1, and then the corresponding duties and obligations are specified quite clearly for the different agents, as discussed in the 1999 report of the independent expert (E/CN.4/1999/WG.18/2, paras. 40-43). For example, according to article 2, paragraph 2, of the 1986 Declaration, "all human beings have a responsibility for development, individually and collectively". They must take appropriate actions, maintaining "full respect for their human rights and fundamental freedoms as well as their duties to the community". Persons have to function both individually and as members of collectives or communities and have duties to communities that have to be carried out in promoting the right to development.

12. States, according to article 3 of the 1986 Declaration, have "the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development". The responsibility of States is complementary to that of individuals' responsibility and is basically for the creation of conditions for realizing the right to development, and not necessarily for actually realizing development. The actions of States needed for creating such conditions are elaborated in the different articles in terms of both national and international operations. At the national level, in article 2, paragraph 3, it is pointed out that "States have the right and the duty to formulate appropriate national development policies". According to article 8, States should undertake all necessary measures for the realization of the right to development and should encourage popular participation in all spheres. In addition, in article 6, States are required to take steps "to eliminate obstacles to development resulting from failure to observe civil and political rights as well as economic, social and cultural rights", because the implementation, promotion and protection of those rights would be essential for realizing the right to development, as "all human rights and fundamental freedoms are indivisible and interdependent".

13. With respect to the obligation of States operating at the international level, the 1986 Declaration is forthright in emphasizing the crucial importance of international cooperation. According to article 3, paragraph 3, States have the duty "to cooperate with each other in ensuring development and eliminating obstacles to development" and should fulfil their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence and mutual interest. This is reiterated in article 6, which states that "all States should cooperate with a view to promoting, encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms". According to article 7, all States should promote international peace and security and complete disarmament, ensuring that resources released thereby are used for comprehensive development, in particular that of developing countries.

14. Most importantly, article 4 declares quite categorically that States have the duty, individually and collectively, to formulate international development policies to facilitate the realization of the right to development. It recognizes that sustained action is required to promote rapid development of developing countries. It then states that as a complement to the efforts of developing countries, "effective international cooperation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development". The implication of this

clause becomes clearer when read in conjunction with article 2, paragraph 3, which says that States have not only the duty but also the right to formulate appropriate national development policies, and other actors of the international community have the duty to facilitate that process. Clearly, States on their own may not be able to formulate and carry out that process in an increasingly globalized and interdependent world without the cooperation of other States and international agencies.

III. The right to development as the right to a process

15. The 1986 Declaration also specifies the nature of the right that is claimed as a human right in article 1, as a particular process of development. There may be many different ways that a country can develop — a sharp increase in GDP or rapid industrialization or export-led growth — which may result in growing inequalities, regional or international disparity, fluctuating employment with little social security, together with a concentration of wealth and economic power, without a commensurate reduction in poverty or improvement in social indicators of education, health, gender development or environmental protection. More importantly, it is possible for a country to grow in conventional terms with no improvement in the fulfilment of civil and political rights or of equity and social justice. These processes of development would not be regarded as part of the process of development protected by the 1986 Declaration, as objects of claim as a human right. It is only that process of development in which all human rights and fundamental freedoms can be fully realized which can be the entitlement of every human person as universal human right.

16. The process of development, "in which all human rights and fundamental freedoms can be fully realized" has been described in several articles of the 1986 Declaration as objectives of development policies or measures to realize the right to development. For example, according to article 2, paragraph 3, such a development process would be "the constant improvement of the well-being of the entire population and of all individuals, on the basis of their actions, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom". Article 8 states more specifically that realizing the right to development would ensure "equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income", as well as "appropriate economic and social reforms" and the eradication of all social injustices; it also states that "women should have an active role in the development process".

17. The 1999 report spelled out in detail the nature of the process of development that is claimed as a human right. Since it is a process "in which all human rights and fundamental freedoms" are realized, it is integrally connected with the fulfilment of civil and political rights and the freedom to participate in both the decision-making processes and the enjoyment of the fruits of development in all spheres, which cannot be realized without the fulfilment of civil and political rights. Furthermore, the concept of such a process of development is rooted in the realization of the principles of equity and social justice. The entire human rights movement is founded on the equal treatment of every individual human being, equality of opportunity and the demand for justice. The movement for formulating the right to development was also motivated initially to bring about a more egalitarian international economic order. The North-South divide of the 1970s and the 1980s has probably lost much of its relevance today, requiring a substantial rethinking about the new international economic order. Nevertheless, the aspiration to realizing equity and social justice remains as a fundamental motivation of all human rights claims and cannot be separated from any programme for the realization of the right to development.

18. Thus, realization of the right to development goes far beyond improving human development. The concept of human development itself is a substantial improvement of the earlier concept of development based on the expansion of wealth and material output or of gross domestic product (GDP). Aggregate human development indicators, such as the human development index propagated by UNDP, usually combine GDP with some simple measures of health and education such as life expectancy and literacy or years of schooling. They do not, however, show how these indices are raised or how they fulfil human rights. Some concerns with equity and justice and with basic freedoms are sometimes taken up in the Human Development Report of UNDP, but rarely do those concerns form the foundation of arguments or programmes for improving human development.

19. The human development approach and a human rights approach are basically complementary. The human rights approach to development can be seen as human development carried out in a manner fulfilling human rights. Such an approach is specified in the 1986 Declaration and in subsequent international resolutions as a participatory, accountable and transparent process with equity in decision-making and sharing of the fruits or outcome of the process, as well as maintaining all the civil and political rights. The objectives of development are set up as claims or entitlements of rights holders which duty bearers are expected to protect and promote, respecting international human rights standards based on equity and justice. In the 1999 report (E/CN.4/1999/WG.18/2), reference was made to rights that are enforceable entitlements and human rights that are derived from human dignity based on equity or the notion of equality of all human beings. Equity in that sense is closely associated with fairness or the principles of a just society; and a human rights approach to development must ensure that the realization of those rights improves equity and justice.

20. In the 1999 report (E/CN.4/1999/WG.18/2, para. 31), it is stated that "One of the benefits of using a human rights approach to development is that it focuses attention on those who lag behind others in enjoying their rights and requires that positive actions be taken on their behalf. In the human rights literature, this is often dealt with in terms of favouring the poorest or the most vulnerable groups of the society. In theory, this would be the application of the Rawlsian difference principle that requires maximizing the advantage of the worse off, no matter how that affects the advantages of all others."[2] Accordingly, poverty reduction is the most important contribution that can be made to the improvement of equity and justice. Any increase of human development, carried out in a participatory, accountable, transparent and non-discriminatory manner that improves equity and justice by reducing poverty, will be consistent with the human rights approach to development.

21. However, the human rights approach to development is not the same thing as realizing the right to development. For example, while reducing poverty or improving the lot of the most vulnerable or the poorest segment of the population will satisfy some index of justice, to realize the right to development, viewed as a right to a process, will require looking at the elements that contribute to the dynamics of sustained poverty reduction and human development. GDP, education and health, the three basic variables in the human development indices, would also be the three most important variables for the sustained reduction of poverty and realization of the right to development as a process of development. Indeed, depending upon the context, there may be several variables of rights interacting among themselves to determine the realization of the right.

22. The right to development as the right to a process of development is not just an umbrella right or the sum of a set of rights. It is the right to a process that expands the capabilities or freedom of individuals to improve their well-being and to realize what they value. It is possible for individuals to realize several of the rights separately, such as the right to food, the right to education or the right to housing. It is also possible that those rights are realized separately following the human rights approach, that is, with transparency and accountability, in a participatory and non-discriminatory manner, and even with equity and justice. It could even be possible that the right to development is not realized as a process of development where the realization of all the rights are interrelated in accordance with a sustainable process. Similarly, a programme of policies can be worked out based upon the relationships between different rights which establishes a process that would facilitate the realization of those rights without actually realizing those rights. The process must be distinguished from the outcomes of the process. The realization of the different rights (i.e. civil and political rights, as well as economic, social and cultural rights) may be the specific outcomes of several policy programmes. But the right to those outcomes is quite different from the right to the process that produces those outcomes.

23. A process implies an interdependence of different elements. The interdependence can be understood in terms of time, as a related sequence of what happens today and what happens tomorrow, and in terms of a particular point in time, as the interaction of cross-sections of elements that are related to each other where the value of a single element depends upon the value of other elements. In the 1999 report (E/CN.4/1999/WG.18/2, para. 67), the right to development is described as a "vector" of different elements, including the right to food, the right to health, the right to education, the right to housing and

other economic, social and cultural rights, as well as all the civil and political rights, together with the rates of growth of representative resources such as per capita consumption, output and employment.

24. There are two basic characteristics of that vector. Firstly, each of the elements or the rights have to be realized according to the rights-based approach spelled out above. This means that the right to development as a whole will also have to be realized in a rights-based manner that is transparent, accountable, participatory and non-discriminatory, as well as equitable and just. Secondly, all the elements are interdependent in the sense that the level of realization of a right, say, the right to health, depends on the levels of realization of other rights, such as the right to food, the right to housing, the right to liberty and security of person or the right to freedom of expression, including freedom of information. Similarly, the realization of all these rights in a sustainable manner over time depends upon the rates of growth in per capita consumption, output and employment. The latter economic variables not only determine the extent of the provision of resources for realizing the different rights, but also affect the manner, the phasing and the spatial and temporal pattern of their realization.

25. Looking at the right to development as a vector of rights and resources has another implication that is crucial to the process of realizing that right. An improvement in the realization of the right to development or an increase in the value of the vector will be unequivocal if all the elements of the vector improve or if at least one improves and no other element decreases. If that is not so and some elements improve and some deteriorate, or if some rights improve in realization and some others are violated, the net improvement in the right to development as a whole would depend upon the relative weights of the rights, depending upon the trade-offs between them. However, when the rights are all human rights, such trade-offs are not possible, as all human rights are regarded as inviolable and none of them is considered superior or more basic than another. Therefore, if any one right is violated, while all others improve in realization, it will not be possible to claim any improvement in the right to development. Among the resources, there can be some trade-off between their components, such as per capita consumption, output and employment depending upon the nature of their relationship in the economy. But their combined effect, yielding a value of resources that determines the realization of the rights, must keep increasing at a sustainable rate to permit a continued improvement in the realization of the right to development. In short, the requirement for improving the realization of the right to development is that at least some of the rights can be increasingly realized while no other deteriorates in realization or is violated, regardless of whether they are civil or political rights or any of the economic, social and cultural rights, and there is a sustained growth of overall resources.

IV. Realizing the right to development

26. In the 1999 report, a programme for realizing the right to development was suggested (E/CN.4/1999/WG.18/2, paras. 57-80), and the working group may wish to consider it in detail. There may be other programmes that the working group may wish to examine. But in all these exercises, it is necessary to appreciate the basic characteristics of any programme for realizing the right to development as a right to a participatory process of development. They can be summarized as follows:

(a) The implementation of the right to development should be seen as an overall plan or programme of development where some or most of the rights are realized while no other rights are violated. In addition, there should be sustained overall growth of the economy, with increased provision of resources for the realization of those rights and with improved structure of production and distribution facilitating that realization. The last point about improving the structure of production and distribution may be important to ensure improved equity in a growing economy;

(b) Implementation of any of the rights cannot be an isolated exercise, and plans or projects for the implementation of the other rights should be designed taking into account consideration of time and cross-sectoral consistency;

(c) The exercise of implementing the overall plan and realizing individual rights must be carried out according to the human rights approach to development, that is, with transparency, accountability and in a non-discriminatory and participatory manner and with equity and justice. In practice, this means with schemes formulated and implemented at the grass-

roots level with the beneficiaries participating in the decision-making and implementation, as well as sharing equitably in the benefits. In short, this implies planning that empowers the beneficiaries;

(d) The interdependencies of the different elements of the right to development be determined by the economic, political, social and legal institutions and the rule and procedures of their operation; and a process of development associated with human development and expanding opportunity with equity and justice will often require a fundamental change in those institutions. The realization of the right to development would in such cases imply a change in the institutional framework, and that would often spill over from national to international institutions;

(e) While the holders of the right to development are peoples and individuals in developing countries as specified in the 1986 Declaration, the duty bearers are primarily the States and the international community and the other members of national and international civil society. It would therefore be necessary to specify the policies in pursuance of these obligations which States parties and the international community, consisting of the international agencies, donor countries and other Governments, as well as multinational corporations, must carry out to implement those rights.

27. The primary responsibility for implementing the right to development will belong to States, as clearly indicated in the 1986 Declaration. The beneficiaries would be the individuals. The international community has the duty to cooperate to enable the States parties to fulfil those obligations. But when realizing the right to development is seen not as realizing a few rights in isolation but as implementing all or most rights in a planned manner in tandem with an appropriately high and sustainable growth of the economy and change in its structure, the importance of international cooperation becomes even more evident. It may be possible for a State party to implement one or two rights, such as the right to education or to primary health, considered in isolation by making some changes in the legal framework and reallocating the resources available within the country; however, implementing a plan of development with fundamental institutional changes may not be possible for individual nation States without substantial help from or the cooperation of the international community.

28. Most developing countries are starved of resources and lack the means to realize a reasonably high economic growth rate or standard of living, not to speak of realizing the rights that would require a change in the whole structure of the economy. They would need the assistance and cooperation of the international community, not only in order to transfer resources to supplement their own domestic resources, but also to implement the changes in the institutions and rules of operation of the international economy needed to allow less developed countries to participate and enjoy the benefits of international trade transactions, financial flows, technology transfers and communication. With increased globalization, most of the States parties have lost their flexibility in following independent policies. Changes in the international economy and the international markets and institutional operations can wipe out the benefits of realization of any right in a very short time. And it may not be possible to conceive of any plan or programme for a State to realize the right to development without specifically accounting for and depending on international cooperation.

29. The movement for the right to development was initiated by the developing countries as a claim of the developing countries on the international community. It was associated with the movement for establishing a new international economic order where the developing countries would have an equitable share in the decision-making process of the international economic system and in the fruits of all international economic transactions. The world was seen as being largely divided between the North and the South, the industrialized versus the developing countries, with the countries in the Soviet bloc generally supporting the South from the sidelines. The right to development, besides being a claim on equitable treatment in all international transactions of the developing countries, became concerned mostly with the transfer of resources and the potential treatment of those countries in international trade and finance.

30. Much of the language used by the developing countries at that time has lost its relevance today. The world is no longer that sharply divided between the North and the South, the cold war has come to an end and the Soviet bloc has disintegrated. But despite the considerable differences in the interests of developing countries, arising from their different levels of development, the essential nature of their dependence

on international cooperation has not changed, except in the case of a few newly industrialized economies. Most of the developing countries are still short of resources. They require substantial transfer of resources from the industrial countries to supplement their domestic resources. Many of them are caught in the debt trap and cannot escape without international cooperation. A large number of those countries still require special institutional mechanisms to stabilize their commodity prices or their fluctuating export earnings. A number of developing countries still require preferential treatment to enable their products to have access to the industrial country markets. A large part of their exports even today are faced with tariffs and non-tariff barriers in protected industrialized markets. Furthermore, the structure of the international financial system still discourages private capital flows to most low-income countries, and any external shock can generate panic in the international capital market, resulting in the flight of capital from most developing countries. Developing countries still require international cooperation to enable them to cope with such problems.

31. Such international cooperation cannot be considered only in terms of transfer of resources. For a great number of countries, in order to realize many of the objectives related to the right to development, making more effective use of existing resources may be more important than the additional flow of resources. For many projects implemented with a rights-based approach to development, the resulting transparency, accountability and empowerment may be cost-effective in terms of public expenditure and may substantially reduce the need for a large injection of foreign aid. But this does not mean that there is no need to increase the transfer of resources from developed countries to developing countries. The resource gap is still very large for most developing countries, especially in those poorer countries which are bypassed by private capital. There may now be a case for more effective use of aid, including its use for leveraging increased private capital flows to many low-income countries, but there is no case for reducing those flows.

32. In an increasingly globalized economy, international cooperation will have to take many different forms in order to tackle the problems mentioned above, such as solving the debt problem, decreasing commodity prices and the instability of export earnings, reducing the protectionism in developed countries and dealing with the inadequacies of the international financial system. In addition, there are the immense gaps in technology and serious threats to the environment. If those problems are not taken care of, the Governments of developing countries will not have the manoeuvrability to implement any effective plan or programme of policies that would enable them to realize the right to development.

33. The overall responsibility of developing countries in implementing the right to development, following the human rights approach, is not diminished even if international cooperation is not forthcoming to the extent desired. The States' responsibility remains absolute in the human rights approach. They must enact legislation, adopt appropriate measures, engage in public actions, formulate schemes that empower the beneficiaries at the grass-roots level, allocate investment and restructure production to promote equity and sustainable growth with whatever resources they have in a given framework of international cooperation. If the level of that international cooperation improves, they will be able to do the job more effectively. But States cannot wait for that increase while not doing all that they can to implement the right to development and protect, promote and facilitate the enjoyment of all civil and political rights, as well as the economic, social and cultural rights.

34. The duty of the international community to cooperate in order to implement the right to development is also absolute, and it is imperative that a consensus is created around a framework for international cooperation that would enable the States parties with the help of civil society to realize the right to development for all the people of the developing countries. As the realization of the right to development is a process, it can be done step by step, creating a framework and taking up areas progressively in accordance with the availability of financial, technical and institutional resources.

35. In the 1999 report, the independent expert submitted a proposal for creating a framework through an international compact of reciprocal responsibility between States parties and the international community (E/CN.4/1999/WG.18/2, paras. 69-76). He then suggested realizing, to begin with, three rights: the right to food, the right to primary education and the right to primary health. Those three rights were chosen because they were integral to the right to life and because they were regarded as convenient to implement, on account of the large amount of work that

had already been done on them by several international institutions. It would be quite consistent with that approach if any other right is chosen by the country concerned, provided that it is implementing the right within the framework of an international compact and in a manner that is integrated with a development plan for realizing all the rights as described above.

36. As an alternative, instead of starting out with a general development plan, a State might concentrate on a programme for the eradication of poverty. The overall development of an economy might be left to the market forces without too much policy intervention except for some incentives or processes for expanding in infrastructure investment. The States could then be involved primarily in poverty eradication following the human rights approach to development.

37. If it is possible to generate greater consensus on international cooperation for poverty eradication, that approach might be convenient for realizing the right to development. Eradicating poverty is consistent with the human rights approach, as improving the well-being of the most vulnerable segments of the population meets with the criteria of equity and justice noted earlier. According to that system of justice, if the lot of the poorest 30-40 per cent of population is improved, it does not matter what happens to the other richer segments of the population. In other words, there is no need to ask whether a reliance on the market forces will be sufficient for the well-being of wealthier segments of the population. The only problem to be concerned about is that an overdependence on the market forces does not create the conditions for an economic and financial crisis that may suddenly have an adverse effect on the nature of the poverty or increase the number of the poor. There should be enough international cooperation, such as creating a lender of last resort or contingency financing facilities with international institutions, to take care of such problems. All the consensus and good will generated by such arrangements could be focused on programmes for the eradication of poverty.

38. The approach of the independent expert would still be relevant in the context of poverty eradication as a programme of realizing the right to development. Poverty has at least two dimensions. The first is income poverty which relates to what percentage of a country's population subsists below a minimum level of income or consumption. The second is related to the capability of the poor to come out of poverty in a sustainable manner by having increased access to facilities like health, education, housing and nutrition. In that context, pursuing policies to realize the right to food, the right to health and the right to education in the framework of international cooperation through an international compact would be wholly consistent with a programme for the reduction of income poverty. The formulation and implementation of all the policies in the programme must be based on a human rights approach maintaining transparency, accountability, participation and non-discrimination with equity in decision-making and in sharing the benefits or, in short, through the empowerment of the poor beneficiaries.

V. Poverty eradication and implementing the right to development

39. During the 1990s, the outcome of several international conferences and initiatives adopted by various international agencies and donor countries contributed towards developing a global consensus on integrating human rights with programmes of development. The World Conference on Human Rights, held at Vienna in June 1993, recognized the right to development as a human right and called upon States and the international community to fulfil their obligations to enable individuals and peoples of developing countries to enjoy that right to development. Then, the International Conference on Population and Development, held at Cairo from 5 to 13 September 1994, adopted major programmes on population and development from a human rights perspective. Those programmes were advanced further at the Fourth World Conference on Women, held at Beijing from 4 to 15 September 1995, where States reaffirmed their commitment to women's rights, eliminating discrimination and ensuring equality of treatment within the broader agenda of development. At the World Summit for Social Development, held at Copenhagen, from 6 to 12 March 1995, heads of State and Government committed themselves to "a vision for social development" based on human dignity, human rights and equality. Five years later, at the World Summit for Social Development and Beyond: Achieving Social Development for All in a Globalized World, a special session of the General Assembly held at Geneva from 26 to 30 June 2000, the implementation

of the 1995 programme of action was reviewed and further actions and initiatives were adopted to implement the commitments made at Copenhagen. It was there, at the 1995 World Summit for Social Development, that the world leaders had spelled out their commitment to creating an environment that would enable people to achieve social development. To that end, they would, at the international level, "promote all human rights, which are universal, indivisible, interdependent and interrelated, including the right to development, as a universal and inalienable right and an integral part of fundamental human rights, and strive to ensure that they are respected, protected and observed".[3]

40. Following that, in 1996, the Development Assistance Committee of the Organisation for Economic Cooperation and Development (OECD) proposed a global development partnership in an effort to achieve clearly specified goals such as the following: reduction by one half of the proportion of people living in extreme poverty by 2015; universal primary education in all countries by 2012; reduction by two thirds of the mortality rate for infants and children under age five and reduction by three fourths of maternal mortality by 2015; and demonstrated progress towards gender equity and the empowerment of women by eliminating gender disparity in primary and secondary education by 2005. The Economic and Social Council, in its resolution 1998/44 of 31 July 1998, noted the efforts to achieve those targets as well as the target of reducing by one half, by 2015, the proportion of people living in extreme poverty. The World Summit for Social Development and Beyond, held at Geneva in June 2000, noting that in many countries the number of people living in poverty had actually increased since 1995, reaffirmed the target of halving the poorest by 2015.

41. Among the conventional measures of poverty, the so-called headcount index is the most common indicator used to estimate the number of people living below a poverty line for each country. If that poverty line is taken as US$ 1 a day (measured in 1985 dollars adjusted for purchasing power parity), according to World Bank estimates there were more than 915.9 million people, excluding those living in China, who were living below the poverty line in 1990. That number went up to 985.7 million in 1998. The total number of the poor in the world, however, went down during that period because of the remarkable decline, almost 40 per cent, in the number of people living below the poverty line in China. Even so, there are about 1.2 billion people today who still live in abject poverty.

42. Table 1 provides estimates of the percentage of people living below the poverty line, by region, for selected years during the period 1987-1998.

43. Table 1 shows that the best performers in poverty reduction during the period 1987-1998 are countries in East Asia and the Pacific, including China, as well as countries in the Middle East and North Africa. According to the World Bank,[4] much of that gain was made by them before the financial crisis of the period 1997-1998, and the data from the national surveys suggest that there was a sharp increase in poverty in some of the countries. Even in China, the rate of poverty reduction slowed down after 1996.

44. The next best performers are the countries in the Middle East and North Africa, as those countries had benefited from rising oil prices. However, if the poverty line were to be drawn at $2 per day, which might be regarded as being more reasonable for middle-income countries, the percentage of the population in the Middle East and North Africa living below the poverty line in 1998 would be 22 per cent. That is in sharp contrast to showing only 2 per cent when the poverty line is drawn at $1 per day, which according to the World Bank, should be taken as the line for extreme poverty.

45. South Asia, which has been the home of most of the world's poor, made very little progress in poverty reduction during this period; with poverty rates falling from 44.9 per cent in 1987 to only 40 per cent in 1998. That was despite the fact that in South Asia gross national product (GNP) grew at an average annual rate of 4.9 per cent between 1965 and 1998, which was higher than the GNP growth rate of Latin American (3.5 per cent), Middle East and North African (3.1 per cent) and sub-Saharan African (2.6 per cent) countries, though lower than East Asian countries (7.5 per cent).

Table 1

Estimated proportion of the population living on less than one dollar per day, by subregion, selected years, 1987-1998

Subregion	*Proportion of the population covered by at least one survey (percentage)*	*Headcount index (percentage)*				
		1987	*1990*	*1993*	*1996*	*1998*
East Asia and the Pacific (excluding China)	90.8	26.6	27.6	25.2	14.9	15.3
Pacific (excluding China)	71.1	23.9	18.5	15.9	10	11.3
Eastern Europe and Central Asia	81.7	0.2	1.6	4	5.1	5.1
Latin America and the Caribbean	88	15.3	16.8	15.3	15.6	15.6
Middle East and North Africa	52.5	4.3	2.4	1.9	1.8	1.9
South Asia	97.9	44.9	44	42.4	42.3	40
Sub-Saharan Africa	72.9	46.6	47.7	49.7	48.5	46.3
Total	**88.1**	**28.3**	**29**	**28.1**	**24.5**	**24**
Total (excluding China)	**84.2**	**28.5**	**28.1**	**27.7**	**27**	**26.2**

Source: World Bank, *World Development Report 1999/2000* (New York, Oxford University Press, 2000).

Note: The numbers are estimated from those countries in each region for which at least one survey was available during the period 1985-1998. The proportion of the population covered by such surveys is given in column 1. Survey dates often do not coincide with the dates in the table. To line up with the above dates, the survey estimates were adjusted using the closest available survey for each country and applying the consumption growth rate from national accounts. Using the assumption that the sample of countries covered by surveys is representative of the region as a whole, the numbers of poor are then estimated by region. This assumption is obviously less robust in the regions with the lowest survey coverage. The headcount index is the percentage of the population below the poverty line. Details on the data and methodology can also be found in Shaohua Chen and Martin Ravallion, "Global poverty measures 1987-1998 and projections for the future" (Washington, D.C., World Bank), forthcoming.

46. In Latin America, despite all of the growth during the 1990s, the poverty ratio remained at around 15-16 per cent. That ratio jumps to about 36 per cent if the poverty line is taken at $2 a day. A difficult case is that of Europe and Central Asia, where, in 1990, there were very few people living in extreme poverty (on less than $1 a day). In 1998, however, more than 24 million people, or 5 per cent of the population, were living on less than $1 a day, and there were as many as 33 million people, or 20 per cent of the population, living on less than $2 a day.

47. The worst case is that of sub-Saharan Africa. In 1987, there were 217 million people, or 46.6 per cent of the population, living in extreme poverty (on less than $1 per day), compared with 291 million people, or 46.3 per cent of the population, in 1998. There was a large inter-country variation of the poverty ratio, but only a handful of the countries had rates below 30 per cent. For a number of countries, the ratio fluctuated quite widely due to external shocks such as falling commodity prices, reduced world export demand, sharp exchange rate depreciation or competitors, in addition to wars, conflicts and natural disasters.

48. The headcount index of poverty, by counting the number of people below the poverty line, defines poverty in terms of per capita income or consumption. Using $1 per day, measured in terms of purchasing power parity, as the poverty line and identifying people living below that as living in extreme poverty may help international comparisons. For a country's domestic policy decisions, however, what is perhaps more relevant is the national poverty line, as it is the cost of a representative basket of consumption which may be regarded by some national criteria as the minimum that would be required for bare subsistence. There may be a large difference between the poverty ratios estimated by the two methods. In China, for example, in the period 1989-1994, the percentage of the population below the national poverty line was 11 percent, in contrast with 29.4 per cent of the population living on less than $1 a day. In the same period, the corresponding figures for India were 35 per cent under the national poverty line in 1994, but as much as 52.5 per cent living on less than $1 a day; and the corresponding figures for Indonesia, another populous country, were 8 per cent below the national poverty line and 14.5 per cent living on less than $1 a day. The above-mentioned figures are taken from the Human Development Report of the World Bank, which gives figures for comparable periods.

49. From the perspective of a rights-based approach to human development, the concept of poverty goes much beyond just income poverty. It signifies an unacceptable level of deprivation of well-being, a level that a civilized society considers incompatible with human dignity. It is a gross violation of human rights. The eradication of poverty should be the first priority of a policy for realizing the right to development.

50. Amartya Sen claims that poverty must be seen as deprivation of basic capabilities rather than merely as low incomes, which is the standard criterion of poverty.[5] He has been promoting that approach for almost two decades. Capabilities are essentially related to human rights, giving individuals expanded choice or freedom to be and do things that they value. Following the approach of broadening the dimensions of poverty, the World Bank defined poverty in terms of low income, as well as low education and health, and proposed a strategy for poverty reduction based on policies to raise the growth in incomes and increased investment in basic education and health care.[6] Capabilities are not limited only to basic education and health care, although they are undoubtedly important not just as values but also in raising the capacity of individuals to increase their income and well-being. In several studies that asked poor people in different countries what they considered to be basic characteristics of poverty, it was found that income mattered, but so too did other aspects of well-being and the quality of life — health, security, self-respect, justice, access to goods and services, family and social life.[7]

51. Lack of dignity, security, self-respect and justice are all expressions of violations of human rights. A poverty reduction strategy must therefore be based on the removal of those violations and improving people's real income and the other indices of the quality of life in a manner consistent with the human rights approach. In other words, an effective poverty reduction strategy will be an illustration of the strategy to implement the right to development.

52. Table 2 presents a profile of human poverty in terms of a number of social indicators, as well as two indices of income poverty: one derived from a poverty line of $1 a day and another from the national poverty lines. Those indices of social indicators are not

exhaustive, and there are several other variables that should be considered for determining any improvement in the quality of life. There should be at least a major assessment of indices of gender equity in terms of female economic activity, women's health and education stratified by gender. A number of studies have established the essential link between gender equity and the quality of life and development. To set a balance, table 3 provides some information on gender and education, but a proper appraisal of the issues concerned must take account of a number of other gender-related variables. All this information, including information about other indices of the quality of life, is provided in *Human Development Report 1999/2000*.[8] Tables 2 and 3 show that the status of poverty cannot be evaluated only by considering income poverty, whether poverty is fundamentally related to the quality of life or deprivation of capabilities.

Table 2
Human poverty profile: weighted averages, by subregion

Subregion	*Proportion of total population not expected to survive to age 40, 1995 (percentage)*	*Adult illiteracy rate, 1995 (percentage)*	*Proportion of total population without access to safe water, 1990-1996 (percentage)*	*Proportion of total population without access to health services, 1990-1995 (percentage)*	*Proportion of total population without access to sanitation 1990-1995 (percentage)*	*Underweight children under age five, 1990-1997 (percentage)*	*Children not reaching grade five, 1996 (thousands)*	*Ratio of real GDP per capita (based on purchasing power parity) of the richest 20 per cent to the poorest 20 per cent*	*Proportion of total population living on $1 a day (measured in 1985 dollars adjusted for purchasing power parity), 1989-1994 (percentage)*	*Proportion of total population below the national poverty line, 1989-1994 (percentage)*
East Asia	8.40	16.67	32.70	12.60	65.42	20.97	9.44	6.87	26.04	13.94
East Asia (excluding China)	11.48	12.47	9.99	14.03	41.09	33.49	14.43	6.51	14.11	22.40
South Asia	2.34	50.80	18.93	22.24	66.79	51.27	37.51	4.84	44.92	35.02[a]
Latin America	6.24	13.50	22.58	20.54	29.35	9.40	23.18	18.56	23.76	39.29
Middle East	11.47	40.28	16.04	11.37	22.92	15.03	7.94	5.89	4.54	25.94
Sub-Saharan Africa	30.48	43.60	46.68	46.54	56.79	30.13	30.30	12.40	35.04	13.48

Source: United Nations Development Programme, ***Human Development Report 1998*** (United Nations publication, Sales No. E.98.III.B.41).

Note: All figures are percentage averages weighted by population based on available country data. Central and Eastern Europe is excluded as only data for Turkey were available.

[a] Based only on India for the period 1987-1997.

Table 3
Gender and education, selected geographical areas, 1997 and 1998

Subregion	*Female adult literacy rate, 1998 (percentage of females aged 14 and above)*	*Female adult literacy, 1998 (as a percentage of the male rate)*	*Female primary age group enrolment ratio, 1997 (percentage of girls of primary school age)*	*Female primary age group enrolment, 1997 (as a percentage of the male ratio)*	*Female secondary age group enrolment ratio, 1997 (percentage of girls of secondary school age)*	*Female secondary age group enrolment, 1997 (as a percentage of the male ratio)*
Arab States	47.3	66	82.1	91	56.8	85
East Asia	75.5	83	99.8	100	77.4	88
Latin America and the Caribbean	86.7	98	92.4	98	65.8	102
South Asia	42.3	64	72.1	86		
Sub-Saharan Africa	51.6	76	51.8	85	35.8	
Organisation for Economic Cooperation and Development			99.7	100	87.8	98

Source: United Nations Development Programme, *Human Development Report 2000* (United Nations publication, Sales No. E.98.III.B.41), table 28, p. 258.

53. For example, East Asia, with or without China has been the best performer on income poverty, but a high percentage of people there have no access to safe water or to sanitation and there is a fairly high proportion of underweight children below the age of five, while its gender education profile is consistently high. South Asia is worse than sub-Saharan Africa on income poverty, measured in terms of the percentage of the population living on less than $1 a day, but it is much better in terms of the percentage of the population not expected to survive to age 40, access to safe water, access to health services and the index of income equality. The people of sub-Saharan Africa, however, are better off in terms of adult literacy and female adult literacy.

54. In other words, for a programme for the eradication of poverty, it is necessary to look at a number of indices together, and an approach based on the right to development implies considering improvement in each of the indices through schemes that have to be implemented following the human rights approach and also as a part of a coordinated programme of growth and development. The human rights approach, where the beneficiaries are empowered to participate in the decision-making and in executing the different schemes, transparently and accountably, and sharing the benefits equitably, is not just an end in itself, helping to realize the human right to development. There are many studies in recent editions of the World Development Report based on inter-country and intra-country experiences that establish that such an approach also improves the outcome of the schemes, increasing the value of the different social indicators. The human rights approach would then also be instrumental to improving the realization of the right to development.

55. For any strategy to realize the right to development, improving the realization of each of the different individual rights has to be coordinated in a development programme that includes measures to ensure a sustainable growth of resources. Resources in the human rights approach include not only GDP or output and employment, but also legal, technical and institutional resources. Any improvement in those resources improves the prospects of realizing all the other rights and increases the value of the other indicators.

56. While there has not been any doubt about the positive effects of improvement in technical, institutional and legal resources, questions have been raised about the relationship between growth of GDP and the values of those indicators. But this has been mostly the result of confusion between what is

necessary and what is sufficient in the relationship between an increase in the value of the indicators and an increase in GDP. For any sustained increase in the value of the indicators, it is necessary to have higher growth of GDP. But having higher growth of GDP is not sufficient to have a high value of the indicators.

57. There are several studies that show that a reduction of income poverty is almost always associated with growth (in income or consumption) and that negative growth is accompanied by an increase in poverty.[9] However, for any given rate of growth, different countries may have different values of income poverty, depending upon how the results of growth are distributed, or what is the pattern of growth, whether the sectors producing labour-intensive outputs, such as agriculture, are growing more or whether regions that have higher growth of population or labour force are growing faster. With regard to the non-income variables or other social indicators, it is possible at a given moment to raise those values by reallocating the resources within a given level of income. But this cannot be sustainable even in the medium term without an increase in the availability of resources, especially when a number of such indicators, each with its claim on resources, are expected to increase together in a coordinated manner in a programme for realizing the right to development.

58. It is important to recognize the different resource implications of (a) implementing any one right separately and independently from others and (b) implementing all or most rights together as part of a development plan or programme. It may be possible to implement any one single right without spending much additional resources, just by using the current level of expenditure more efficiently through better allocation of their expenditure. In most cases, it would only be necessary for the States parties to adjust their method of functioning and fulfil their obligations to the beneficiaries according to the human rights approach. There will be indirect effects of not fulfilling the other rights, because as noted earlier, the level of enjoyment of any one right will depend upon the level of enjoyment of the other rights; however, those effects will be ignored if the concern is with the implementation of one single right in isolation. If implementing a single right is seen as a part of a plan for development, it will have to build on the interdependence between the rights or between the flows of goods and services that are reflected in the social indicators associated with different rights. This would call for a substantial increase in net resources, often to a level well beyond the domestic resources that are available.

59. In order to sustain a high and feasible level of growth that expands over time the supply of resources, most developing countries require a domestic rate of investment that is higher than the rate of savings, which must be bridged with a supply of foreign savings or international transfer of resources. Developing countries' claim on international cooperation, to which they will be entitled by virtue of the international acceptance of the right to development, will include, in addition, a change in the framework of international relations giving them an equitable share in the fruits of international transactions. The need for such cooperation will be much greater than a simple human rights approach to realizing individual rights.

60. It appears that the international community, in particular the developed donor countries, the World Bank, the International Monetary Fund (IMF), UNDP and regional financial institutions, have also realized the need for changing their traditional methods of development cooperation and financing developing countries and have increasingly been adopting an approach based on partnership and empowerment of the recipients. In many developed countries, the percentage of GNP used for foreign aid declined in the 1990s; subsequently, there was a growing realization that private capital flows, which took over a much larger share of international flows to developing countries, were not adequate for meeting their development needs. Several surveys in developed countries showed that if tax payers were convinced that foreign aid was used appropriately and effectively, they would not mind it being increased. Accordingly, the donor community started reviewing its strategies for aid, making recipients own their programmes, and accept the necessity for policy reforms to be dictated by their own needs, not by conditionalities imposed from outside. And the stance of their aid shifted towards poverty removal in its broad sense of increasing the capabilities and the empowerment of the poor. As noted in the 1999 report, the essential ingredients on which the approach of a "development compact" proposed by the independent expert could be built was spelled out by the Development Assistance Committee, in its 1996 study entitled *Shaping the Twenty-first Century: The Contribution of Development*

Cooperation;[10] by the Swedish International Development Coordination Agency in its 1997 study entitled *Development Cooperation in the Twenty-first Century*; by the United Kingdom Secretary for International Development in its 1997 White Paper entitled *Eliminating world poverty: a challenge for the twenty-first century*, and by the World Bank in its 1998 Policy Research Paper entitled *Assessing Aid*.[11]

61. To illustrate such changes in the approach to international cooperation, the essential features of three initiatives deserve to be mentioned here. The World Bank announced in 1999 its Comprehensive Development Framework, based on four principles: country ownership of the policy agenda, programmes based on national consultations, partnership with all stake holders or donors and attention to social and structural concerns and financial issues. Not many countries have adopted such a framework but one country that did, Bolivia (in 1997), is a good example of how such initiatives can be made consistent with the above-described approach to the right to development. Bolivia adopted a national action plan, in the form of a five-year development programme, to increase the rate of growth with better distribution, to raise the living standards of the poor and disadvantaged and to strengthen the institutional framework for better justice and a corruption-free administration. The plan for reducing poverty with dignity and empowerment was set in a programme of structural change, with macroeconomic stability. The plan was prepared through a process of elaborate consultation between the Government and civil society, non-governmental organizations, unions, church groups, opposition parties, academics and the private sector. The World Bank organized a Consultative Group meeting of all the donors for effective coordination between them, as a result of which the donors pledged 45 per cent more aid than before.

62. The second initiative was the preparation of poverty reduction strategy papers by countries in collaboration with IMF and the World Bank that would serve as a basis for increased financial assistance from a new IMF facility, as well as from the World Bank and other donors, in cooperation with each other. The strategy, based on the removal of obstacles to poverty reduction, well-designed public actions through a participatory process to achieve poverty reduction targets in a framework of rapid and sustained growth with macroeconomic stability, would be the result of a process of participatory dialogue within the country between the Government, the private sector and civil society. The strategy would be consistent with the above-described approach to realizing the right to development if the human rights concerns are clearly taken into account and a rights-based approach is adopted in the formulation of the schemes and policies of the Government, as well as in the methods of international cooperation.

63. The third initiative is related to schemes of debt relief. The international community has increasingly recognized debt relief as one of the most important elements of international cooperation to enable poor countries to achieve a reasonable increase in the resources that they need for any programme for poverty reduction and improved human development. The initiative to relieve the financial burden of heavily indebted poor countries that was announced in 1996 was revised as an enhanced programme at the G-7 Summit held at Cologne in July 1999. According to the programme, poor countries would adopt plans for the reduction of poverty in accordance with the poverty reduction strategy paper drawn up in collaboration with IMF and the World Bank. Regrettably, not much progress has been made in the implementation of this initiative. At Cologne, the heads of State or Government of the group of seven major industrialized countries offered to reduce by as much as 70 per cent the debt of $127 billion owed by 33 impoverished countries, mostly in Africa. But one year later, little of that relief has materialized, although several countries have worked out appropriate programmes for reducing poverty.

VI. Conclusion and proposed guidelines for realizing the right to development

64. In light of the discussion above, it may be useful to reformulate the strategy for realizing the right to development that was proposed in the 1999 report. The right to development is, in short, the right to a particular process of development that allows the realization of economic, social and cultural rights, as well as civil and political rights and all fundamental freedoms, by expanding the capabilities and choices of the individual. The realization of the rights has to be based on a programme of coordinated actions in the form of a development plan that strives for growth of

GDP and other resources, as well as sustained improvement of the social indicators related to the different rights. All the individual and interdependent schemes need to be designed and implemented following the rights-based approach, based on empowerment and participation in the decision-making and execution, with transparency and accountability, and equity and non-discrimination in the enjoyment of the benefits. Such a plan would be totally different from the earlier forms of central planning and would be based entirely on decentralized decision-making with the participation and empowerment of the beneficiaries. The plan has to be formulated through a process of consultation with civil society and the beneficiaries in a non-discriminatory and transparent manner.

65. In the initial phase, such a development plan may concentrate on a well-designed and well-targeted programme for the eradication of poverty in its broad dimensions; not just income poverty, but also the deprivation of capabilities. The reduction of income poverty would require a plan that not only would raise the rate of growth of the country but also would change the structure of production to facilitate the income growth of the poor, as well as increased equality of consumption, both within the region concerned and between regions. In addition, there will have to be improvement of the social indicators that expand the capabilities following the rights-based approach consistent with the planned rate of growth of the overall output and of the indicators and their interdependence.

66. To facilitate the realization of the process in a step-by-step manner, the independent expert proposed first taking up the realization of three rights: the right to food, the right to primary health and the right to primary education. If a country prefers to choose other rights first, that can be accommodated without any difficulty into the programme. The independent expert proposed implementing the programme through a development compact between the countries concerned and representatives of the international community, the major donors and the international financial institutions. The purpose of working through such a development compact is to highlight the importance of international cooperation in implementing the right to development. The country concerned will have to implement it in a rights-based manner. The representatives of the international community, who may wish to form a support group, will accept a reciprocal obligation of providing all the necessary support for implementing the programme, including sharing the cost of the programme if the developing country concerned carries out its responsibility.

67. The national obligations of a developing country adopting the rights-based programme have been spelled out in different reports of the working group on the Right to Development. The recommendations include the following: (a) States should be encouraged to consider legislative and constitutional changes (when their legal system so permits) which are designed to guarantee that treaty law takes precedence over internal law and that treaty provisions are directly applicable in the internal legal order; (b) States should take measures to ensure that the poor and the vulnerable groups including landless farmers, indigenous people and the unemployed have access to productive assets such as land, credit and means of self-employment; and (c) in areas where conflicts of any type have occurred or are occurring, States should ensure that the population living in the affected areas is able to retain the right to property and legally acquired rights (see E/CN.4/1998/29, paras. 63, 71 and 72). Similarly, the recommendation regarding civil society and non-governmental organizations, policies encouraging their greater participation in local and national decision-making especially the participation of groups that represent vulnerable segments of society, such as the poor, the homeless and the unemployed, and public interests groups (e.g. consumer, environmental, human rights and women's rights organizations) should be implemented. Most importantly, Governments must introduce whatever legal changes are necessary to ensure gender equality in jobs, education, health care and other activities.

68. The obligations of the international community have also been set out in various human rights instruments. Every effort has to be made to ensure equality of treatment in the decision-making and operations of the international financial and trading system, such as IMF, the World Bank, the World Trade Organization and bilateral arrangements including reduction of commodity and export earning fluctuations, reduction of the debt burden and improved access to exports from and capital flows into developing countries.

69. The reciprocal obligations that will be have to be spelled out in the development compacts must be

worked out carefully. The developing countries must accept the primary responsibility of implementing programmes for realizing the right to development covered by the compact, with all the necessary policies and public actions. Several studies of the World Bank and IMF showed that the usual process of imposing conditionality in financial programmes did not work in most cases because they appeared to be imposed from outside and therefore not owned by the developing countries. It is imperative that whatever conditionality or obligations that the developing countries have to take up should be seen by them as being in their own interest and should be monitored mostly by them. In a rights-based approach, this is particularly important to ensure equality of treatment.

70. In a development compact, the developing countries will have to take up obligations regarding fulfilling and protecting human rights. The most equitable manner of monitoring the fulfilment of those obligations would be through the establishment in each country of a national human rights commission, consisting of eminent personalities from the country itself. For that purpose, all countries wishing to implement the right to development through development compacts will have to set up such national commissions, which will investigate and adjudicate on violations of human rights. That is initially the only way to ensure against such violations. No country in the world could claim that there are absolutely no violations of human rights in its territory. All that can be ensured is that there is an adequate mechanism in the legal systems to redress such violations. If a developing country sets up a national human rights commission in accordance with international norms and it can function independently without any hindrance or obstacle and appropriate legislation is framed, then that should be sufficient guarantee that the country will carry out its human rights obligation according to the development compact.

71. The obligation of the international community should also be set out in the context of the development compact. If a developing country carries out its obligations, the donor countries and the international agencies must ensure that all discriminatory policies and obstacles to access for trade and finance are removed and the additional cost of implementing those rights is properly shared. The exact share may be decided on a case-by-case basis or in accordance with an international understanding of, say, half-and-half share of the additional cost between representatives of the international community and the country concerned.

72. The details of the compacts and the rights-based approach to the implementation of such a programme may be worked out without much difficulty by experts from the countries concerned and the international agencies that were involved in the countries and experienced in the appropriate fields. What is necessary is political will, determination on the part of all the countries that have accepted the right to development as a human right to implement the right to development in a time-bound manner through obligations of national action and international cooperation.

Notes

[1] Amartya Sen, *Development as Freedom* (Oxford University Press, 1999), pp. 227-231.

[2] John Rawls, *A Theory of Justice* (Cambridge, Massachusetts, Harvard University Press, 1971).

[3] See commitment 1, subparagraph (n), of the Copenhagen Declaration on Social Development (*Report of the World Summit for Social Development, Copenhagen, 6-12 March 1995*) (United Nation publication, Sales No. E.96.IV.8), chap. I resolution 1, annex I, sect. C).

[4] World Bank, *World Development Indicators 2000* (New York, Oxford University Press, 2000).

[5] Amartya Sen, *Development as Freedom* (Oxford University Press, 1999).

[6] World Bank, *World Development Report 1990* (New York, Oxford University Press, 1990).

[7] Robert Chambers, "Poverty and livelihoods: whose reality counts?", Discussion Paper No. 347, Institute of Development Studies, University of Sussex, 1995.

[8] United Nations Development Programme, *Human Development Report 2000: Human Rights and Human Development* (United Nations publication, Sales No. E.00.III.B.8).

[9] See Martin Ravallion and Shaoshu Chen, "What can new survey data tell us about recent changes in distribution and poverty?" *World Bank Economic Review*, vol. II, No. 2 (May 1997).

[10] Development Assistance Committee, *Shaping the 21st Century: the Contribution of Development Cooperation* (Paris, Organisation for Economic Cooperation and Development, 1996).

[11] World Bank, *Assessing Aid* (New York, Oxford University Press, 1998).